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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Greene, et al.

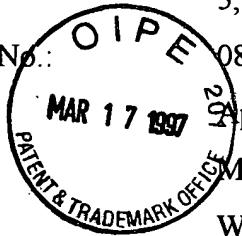
Patent No.: 5,203,267

Reissue Application No.: 08/425,766

Filing Date: MAR 17 1997 April 19, 1995

Title: METHOD AND APPARATUS FOR DISPOSING OF

WASTE MATERIAL



Honorable Commissioner of
Patent and Trademarks
Washington, D.C. 20231

Dear Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date shown below.

Lorraine Rangel

3-11-97

Date

**DECLARATION FOR SIGNING JOINT REISSUE DECLARATION AND POWER OF
ATTORNEY ON BEHALF OF OMITTED INVENTOR WHO REFUSES TO SIGN
PURSUANT TO 37 C.F.R. § 1.47**

I, Michael T. Slataper, hereby declare that:

I am a citizen of the United States of America, residing at 2314 River Ridge, Arlington, Texas 76017.

I am authorized by NCE Concepts, Ltd., as President of MTS Capital, Inc., General Partner of NCE Concepts, Ltd. of 2150 Chennault, Carrollton, Texas 75006, having a sufficient proprietary

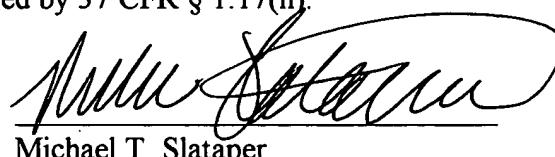
interest in this reissue application, to sign the Joint Reissue Application Declaration and Power of Attorney document on behalf of and as agent for omitted inventor Ralph F. Greene, a citizen of the United States of America, having a last known address of 777 Custer Road, No. 3-3, Richardson, Texas 75080.

Accompanying this declaration are:

1. A Joint Reissue Application Declaration and Power of Attorney;
2. A Declaration establishing proof of the pertinent facts in support of filing on behalf of omitted inventor Ralph F. Greene;
3. A letter from the patent attorney of omitted inventor Ralph F. Greene indicating Mr. Greene's refusal to sign the Joint Reissue Application Declaration and Power of Attorney for this reissue application;
4. A Declaration Establishing Proprietary Interest of Person Signing on Behalf of an Omitted Inventor to establish proof of the pertinent facts and to show that such action is necessary to preserve the rights of the parties or to prevent irreparable damage; and
5. The petition fee of \$130.00 as required by 37 CFR § 1.17(h).

Date: 3/5/97

Signed:



Michael T. Slataper

President, MTS Capital, Inc.
General Partner
NCE Concepts, Ltd.

Attorney Docket No.:
017220.0115

REISSUE APPLICATION

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C102P 340

#11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Greene, et al.
Serial No.: 08/425,766 **RECEIVED**
Filing Date: April 19, 1995 APR 6 1997
Title: METHOD AND APPARATUS FOR
DISPOSING OF WASTE MATERIAL **GROUP 1100**



Honorable Commissioner of
Patents and Trademarks
Washington, D.C. 20231

Dear Sir:

JOINT REISSUE APPLICATION DECLARATION AND POWER OF ATTORNEY

We, Ralph F. Greene and Patrick C. Malone, hereby declare that:

1. Our residences, post office addresses, and citizenship are as stated below next to our names.
2. We have reviewed and understand the contents of the above identified specification, including the claims.
3. We believe that we are the original, first, and joint inventors of the subject matter which is described and claimed in United States Patent No. 5,203,267 ("the '267 Patent"), entitled "Method and Apparatus For Disposing of Waste Material," granted on April 20, 1993, and in the foregoing specification for which invention we solicit a reissue patent.
4. We acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. § 1.56.

5. We verily believe that the '267 Patent is partly inoperative by reason of our claiming less than we had the right to claim in the patent. The insufficiency of the claims is shown below.

6. We seek to broaden the scope of the independent claims in the reissue application. This request is filed within two years of the date of issue of the '267 Patent as required by 35 U.S.C. § 251.

7. Amendment of Claim 1. Claim 1 has been amended to remove the last element of the claim, which reads:

a liquid filter for capturing said particulate matter contained in said fired exhaust and for chemically treating said fired exhaust gases to reduce the quantity of CO, NO and SO contained in said fired exhaust.

(Hereinafter "the liquid filter element")

8. The liquid filter element in Claim 1 of the '267 Patent is not required to define a waste disposal apparatus that is patentable over the prior art. Claim 1, as amended, includes "a first combustion chamber for incinerating waste material in an oxygen rich atmosphere" and "a second combustion chamber for firing said exhaust . . . in an oxygen starved atmosphere." The references cited during prosecution of the '267 Patent and the references disclosed in the Information Disclosure Statement filed July 20, 1995 do not disclose, teach, or suggest the waste disposal apparatus recited in Claim 1, as amended. Prior art disposal systems use a first combustion chamber having an oxygen starved atmosphere and a second combustion chamber having an oxygen rich atmosphere that is the exact opposite of our novel waste disposal apparatus. Our invention of using an oxygen rich atmosphere in the first chamber allows for a rapid and more complete burn of the waste material than provided for in prior art systems.

9. During prosecution of the '267 Patent, the Examiner stated that the oxygen rich and deficient combustion stages of our then pending claims were well known in the art. We are not aware of any reference that discloses, teaches, or suggests the

waste disposal apparatus recited in Claim 1, as amended, nor did the Examiner ever provide us with a reference to support this assertion.

10. During prosecution of the '267 Patent, we mistakenly believed that the liquid filter element, in combination with the first and second combustion chamber recited in Claim 1 of the '267 Patent, was necessary to define over the prior art. We were mistaken in our belief because prior to our invention, it was not known to use an oxygen rich first combustion chamber and an oxygen starved second combustion chamber as recited in Claim 1, as amended. The liquid filter element recited in Claim 1, as amended, is not required to define patentable subject matter.

11. This misunderstanding as to the scope of our invention was discovered at a meeting inventor Patrick C. Malone called with NCE executives and our patent counsel, Robert M. Chiaviello, Jr., on February 2, 1995, during which we reviewed the claims of the '267 Patent in connection with a possible infringement matter brought to our attention. In a review of those claims it was recognized that all of the claims had a limitation to a liquid filter. It was determined that, based on the original disclosure of our invention and Mr. Malone's personal understanding of the invention, a liquid filter was not necessary to practice the invention or define patentable subject matter. On that basis, it became clear to Mr. Malone that the claims of the '267 Patent were partially inoperative to the extent that they claimed less than we had a right to claim. This misunderstanding as to the scope of our invention arose without any deceptive intention on our part and arose because we failed to appreciate that Claim 1 of the '267 Patent did not embrace the full scope of our invention, as discussed above.

12. New Claim 19. New Claim 19 contains the subject matter of the liquid filter element of Claim 1 of the '267 Patent written in dependent form. No new matter has been added.

13. Amendment to Claims 11, 12, 13, 14, and 18. Claims 11, 12, 13, and 18 are amended to depend from new Claim 19 rather than from Claim 1. Since the liquid filter element has been

removed from Claim 1 and placed in new Claim 19, Claims 11, 12, 13, 14, and 18 are amended to maintain proper claim dependency.

14. Amendment to Claim 15. Claim 15 has been amended to remove the last element in the claim which reads:

liquid filter means for capturing said particulate matter contained in said fired exhaust for chemically treating fired exhaust gases to reduce CO, NO, and HCL and SO₂ contained in said fired exhaust.

(Hereinafter the liquid filter means element.)

15. The amendment to Claim 15 is similar to the amendment to Claim 1 discussed above. The remaining elements in Claim 15 are patentable over the prior art as the prior art does not disclose a waste disposal system having an oxygen rich first combustion means and an oxygen poor second combustion means. During prosecution of the '267 Patent, we mistakenly believed that the liquid filter means element, in combination with the first and second combustion means recited in Claim 15, was required to define over the prior art. We were mistaken in our belief because prior to our invention, it was not known to use an oxygen rich first combustion means and an oxygen starved second combustion means as recited in Claim 15, as amended. The liquid filter means element recited in Claim 15, as amended, is not required to define patentable subject matter.

16. As discussed above, this misunderstanding as to the scope of our invention was discovered at a meeting inventor Patrick C. Malone called with NCE executives and our patent counsel, Robert M. Chiaviello, Jr., on February 2, 1995, during which we reviewed the claims of the '267 Patent in connection with a possible infringement matter brought to our attention. In a review of those claims it was recognized that all of the claims had a limitation to a liquid filter. It was determined that, based on the original disclosure of our invention and Mr. Malone's personal understanding of the invention, a liquid filter was not necessary to practice the invention or define patentable subject matter. On that basis, it became clear to Mr. Malone that the claims of the '267 Patent were partially inoperative to

the extent that they claimed less than we had a right to claim. This misunderstanding as to the scope of our invention arose without any deceptive intention on our part and arose because we failed to appreciate that Claim 15 of the '267 Patent did not embrace the full scope of our invention.

17. New claim 20. New Claim 20 includes the subject matter of the liquid filter means element of Claim 15 of the '267 Patent written in dependent form. No new matter has been added.

18. We hereby appoint, both jointly and severally, as our attorneys with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith the following attorneys, their registration numbers being listed after their names:

Jerry W. Mills	Reg. No. 23,005
Ann C. Livingston	Reg. No. 32,479
William N. Hulsey III	Reg. No. 33,402
Anthony E. Peterman	Reg. No. 38,270
Robert M. Chiaviello, Jr.	Reg. No. 32,461
Thomas R. Felger	Reg. No. 28,842
Charles S. Fish	Reg. No. 35,870
Robert H. Johnston III	Reg. No. 37,364
Wei Wei Jeang	Reg. No. 33,305
Christopher W. Kennerly	Reg. No. P40,675
Kevin J. Meek	Reg. No. 33,738
Christopher J. Rourk	Reg. No. 39,348
Barton E. Showalter	Reg. No. 38,302
Terry J. Stalford	Reg. No. 39,522
Daniel P. Stewart	Reg. No. P41,332
Robert J. Ward	Reg. No. 38,652
David G. Wille	Reg. No. 38,363
Bradley P. Williams	Reg. No. 40,227
Philip W. Woo	Reg. No. 39,880
Roger J. Fulghum	Reg. No. 39,678
Rodger L. Tate	Reg. No. 27,399
Scott F. Partridge	Reg. No. 28,142
James G. Gatto	Reg. No. 32,694
James B. Arpin	Reg. No. 33,470
James Remenick	Reg. No. 36,902
Jay B. Johnson	Reg. No. 38,193
Christopher C. Campbell	Reg. No. 37,291
Jerome T. Tao	Reg. No. 37,247
Stacy B. Margolies	Reg. No. 39,760

19. All correspondence and telephone communications should be addressed to Baker & Botts, L.L.P., 2001 Ross Avenue, Dallas, Texas 75201-2980, telephone number (214) 953-6500, which is also the address and telephone number for each of the above-listed attorneys.

We hereby declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful false statements may jeopardize the validity of the application or any patent issuing thereon.

3/5/97
Date

By: Patrick C. Malone
Patrick C. Malone

RESIDENCE: 42924 Brandenburg Lane
The Colony, Denton County,
Texas

CITIZENSHIP: United States of America

POST OFFICE ADDRESS: Same

3/5/97
Date

By: 
Michael T. Slataper

President, MTS Capital, Inc.
General Partner
NCE Concepts, Ltd.

on behalf of: Ralph M. Greene

RESIDENCE:

777 Custer Road, #3-3
Richardson, Dallas County,
Texas

CITIZENSHIP:

United States of America

POST OFFICE ADDRESS:

Same

THOMPSON & HOWISON, L.L.P.

ATTORNEYS AT LAW
PATENT AND TRADEMARK MATTERS

High Point Centre
12225 Greenville Avenue
Suite 995
Dallas, Texas 75243

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DANIEL V. THOMPSON
GREGORY M. HOWISON
JOE H. SHALLENBURGER

Telephone (214) 479-0450
Facsimile (214) 479-0215

May 17, 1995

Thomas A. Gigliotti, Esquire
Baker & Botts, L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

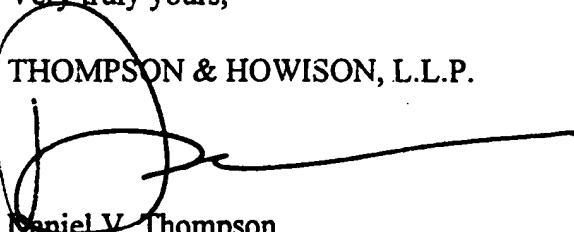
Re: Reissue Application - U.S. Patent No. 5,203,267
Our File: A-15538 - Your Ref: 017220.0115

Dear Mr. Gigliotti:

I have reviewed the proposed reissue application Declaration with Mr. Greene, and he has declined to sign it.

Very truly yours,

THOMPSON & HOWISON, L.L.P.


Daniel V. Thompson

DVT/cgm

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Greene, et al.
Patent No.: 5,203,267
Reissue Application No.: 08/425,766
Filing Date: April 19, 1995
Title: METHOD AND APPARATUS FOR DISPOSING OF
WASTE MATERIAL

Honorable Commissioner of
Patent and Trademarks

Washington, D.C. 20231

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on the date shown below.

Lorraine Langel

3-11-97

Date

Dear Sir:

**DECLARATION ESTABLISHING
PROPRIETARY INTEREST OF PERSON SIGNING
ON BEHALF OF AN OMITTED INVENTOR**

I, Michael T. Slataper, President of MTS Capital, Inc., General Partner, NCE Concepts, Ltd., a Texas limited partnership, 2150 Chennault, Carrollton, Texas 75006, am the person signing the Declaration for the above-identified application on behalf of the omitted joint inventor, Mr. Ralph M. Greene, and make this Declaration as to the facts establishing the proprietary interest of NCE Concepts, Ltd.

NCE Concepts, Ltd. certifies that it is the Assignee of the entire right, title, and interest in the above-identified application, as evidenced by evidentiary documents recorded in the U.S. Patent and Trademark Office at Reel 5715, Frames 0001-0002 and at Reel 7189, Frames 0786-0792.

I have reviewed all the documents in the chain of title of the above-identified application and, to the best of my knowledge and belief, title is in the Assignee identified above, NCE Concepts, Ltd. I am empowered to sign this certificate on behalf of Assignee, NCE Concepts, Ltd.

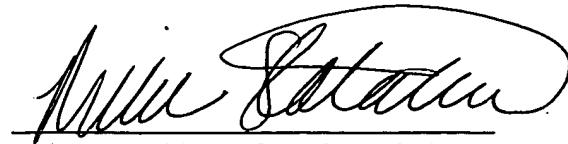
This Reissue Application was filed on April 19, 1995 to preserve the rights of NCE Concepts, Ltd. and prevent irreparable damage before the expiration of the two-year deadline for broadening the scope of issued claims in U.S. Patent 5,203,267 under 35 U.S.C. § 251. Mr. Greene is no longer an employee of New Clear Energy, Inc. or NCE Concepts, Ltd. Mr. Greene was contacted by patent counsel for NCE Concepts, Ltd. and has declined to execute the Declaration for this Reissue Application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date:

3/5/97

Signed:



Title: President of MTS Capital, Inc.
General Partner

NCE Concepts, Ltd.
2150 Chennault
Carrollton, Texas 75006